

The Flinn Report

Illinois

Regulation

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Joint Committee on Administrative Rules

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Illinois Regulation is a summary of the weekly regulatory decisions of State agencies published in the Illinois Register and action taken by the Illinois General Assembly's Joint Committee on Administrative Rules. Illinois Regulation is designed to inform and involve the public in changes taking place in agency administration.

New Regulations

Proposed Regulations

AIR POLLUTION

The POLLUTION CONTROL BOARD adopted amendments for "Definitions and General Provisions" (35 Ill Adm Code 211), "Organic Material Emission Standards and Limitations for the Chicago Area" (35 Ill Adm Code 218), "Organic Material Emission Standards and Limitations for the Metro East Area" (35 Ill Adm Code 219), and "Sulfur Limitations" (35 Ill Adm Code 214), all effective 5/15/06. According to the Board, the amendments for Parts 211, 218, and 219 are designed to make Illinois regulations consistent with federal Clean Air Act requirements regarding volatile organic materials (VOM) recovery. Two new definitions are added to Part 211 to clarify the clean air requirements. "Carbon adsorber" is defined as a control device to remove and, if desired, recover VOM from process emissions through adherence of the VOM to a surface of highly porous adsorbent particles, such as activated carbon. However, the term carbon adsorber may also include adsorber technology that uses media other than carbon. "Screen printing on paper" means a process that uses ink passed through a taut screen or fabric to which a refined

stencil form is applied. Screen printing on paper is not considered a "paper coating". Parts 218 and 219 are amended by adding incorporations by reference of federal rules regarding VOM measurement techniques for capture efficiency and repealing the appendix that previously contained such techniques. Other incorporations by reference are also updated or added. The amendments offer two new alternative capture efficiency protocols developed by the federal Environmental Protection Agency (USEPA). The new methods are statistical "mass balance" approaches to determine capture efficiency and are called the "data quality objective" (DQO) and the "lower confidence limit" (LCL). Both the methodology for demonstrating compliance and the testing documentation that is required to be submitted for the new protocols are provided. Also, if an owner or operator has multiple lines sharing a common control device, the capture efficiency of the lines may be tested simultaneously under specified conditions. Notification of the actual date and expected time of capture efficiency or control testing must be submitted within 5 working days prior to the actual test.

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HOSPITALS


The DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES proposed an amendment to "Hospital Services" (89 Ill Adm Code 148) to make initial or increased safety net adjustment payments (SNAP) and critical hospital adjustment payments (CHAP) to the following hospitals that are high-volume Medicaid providers: Holy Cross, Michael Reese, Sacred Heart, Saint Francis, Lincoln Park, LaRabida Children's, St. Anthony, Jackson Park, Rush Presbyterian St. Luke, and Roseland (all located in Chicago); Little Company of Mary (Evergreen Park); St. James (Chicago Heights); Kenneth Hall (E. St. Louis); and St. Francis (Blue Island). Additional amendments eliminate St. Elizabeth's (Belleville) eligibility for SNAP.

HFS also proposed an amendment to "Hospital Reimbursement Changes" (89 Ill Adm Code 152) revising "outlier" adjustment payments to control the growth in spending of hospitals reimbursed on a per diem basis or under the Diagnosis Related Grouping - Prospective Payment System (DRG PPS). (Outlier adjustments are paid to hospitals for exceptionally costly procedures such as organ transplants.) A hospital will qualify for outlier payments once the cost of care surpasses the DRG amount multiplied by 1.47, which is increased from 1.40. For per diem rate hospi-

(cont'd page 3)

NEW REGULATIONS: Rules adopted by agencies this week.

PROPOSED REGULATIONS: Rules proposed by agencies this week, commencing a 45-day First Notice period. Public comments must be accepted by the agency for the period of time indicated.

: Symbol designating rules of special interest to small businesses, small municipalities, and not-for-profit corporations. Agencies are required to consider comments from these groups and minimize the regulatory burden on them.

QUESTIONS/COMMENTS/RULE TEXT: Direct mail or phone calls to the agency personnel listed below each summary. Providing volume and issue number of The Flinn Report or the Illinois Register will expedite the process. Some agencies charge copying fees. However, copy requests do not have to be made under the Freedom of Information Act.

New Regulations

Temperature-monitoring equipment must be installed, calibrated, and operated, and a continuous record must be maintained by owners or operators who use an afterburner or carbon adsorber as their control device. In addition, both rulemakings repeal provisions that regulate the use of perchlorethylene as a VOM used by dry cleaners because the USEPA has determined that the chemical has negligible photochemical reactivity. Clarifying changes made to the 2 Parts apply to sealer and topcoat categories; monitoring, applicability, equations, recordkeeping, and reporting for lithographic printing operations; and turning off natural gas-fired afterburners outside the ozone season. Provisions requiring motor vehicle refinishing shops to maintain certain records for the most recent consecutive 3 years and to re-register every year are stricken. The Part 214 amendments correct technical errors in formulas that are used in air pollution rules on sulfur limitations. Typographical and grammatical errors are also corrected in Parts 214, 218, and 219. Changes since 1st Notice for Part 214 revise formulas in Section 214.184(b) and Appendix C to correct values in response to EPA comments. In Part 218, the Board added text to Section 218.105 (c)(2)(E) concerning enforcement and added a Board note to that subsection concerning establishing emission credits. The same changes were also made in Section 219.105 (c)(2)(E) of Part 219. Small businesses, small municipalities, and not-for-profit corporations that are stationary sources of VOM emissions or sulfur emissions in the Chicago or metropolitan East St. Louis ozone non-attainment areas are affected by these rulemakings.

Questions/requests for copies: Richard McGill, PCB, 100 W. Randolph, Ste. 11-500, Chicago IL 60601, 312/814-6983, e-mail: mcgillr@ipcb.state.il.us. Please reference consolidated dockets R04-12 and R04-20.

STATE EMPLOYEES

The Department of Central Management Services adopted amendments for rules titled "Pay Plan" (80 Ill Adm Code 310), effective 5/15/06, to increase the designated pay rate set by the Governor for a senior public service administrator at the Department of Public Health to \$139,364/yr. (previously \$134,004). Additionally, the rulemaking updates the fiscal year 2006 negotiated pay rates for State employee members of Teamsters Locals #726, #330, and #25 based on collective bargaining agreements effective 7/1/04 through 6/30/08. The affected State agencies are the departments of Central Management Services, Transportation, Human Services, Employment Security, Corrections, State Police, Veterans Affairs, and Natural Resources. The rulemaking also adds the salary ranges, effective 1/1/06, for Teamsters Local #916 members working at the Department of Natural Resources and corrects an error in pay grade for the insurance performance examiner II position that comes under an American Federation of State, County, and Municipal Employees (AFSCME) collective bargaining agreement.

Questions/requests for copies: Jason Doggett, DCMS, 504 Stratton Bldg., Springfield IL 62706, 217/782-7964, Fax 217/524-4570.

BARBERS, COSMETOLOGISTS, ESTHETICIANS, AND NAIL TECHNICIANS

The DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION adopted amendments for rules titled "The Barber, Cosmetology, Esthetics, and Nail Technology Act of 1985" (68 Ill Adm Code 1175), effective 5/10/06, to implement portions of Public Act 91-863, which reauthorizes the statute. The statutory definition of "cosmetology" is expanded to specifically include hair braiding; facial

hair cutting and trimming; hand or foot skin care, which includes hand, foot, or leg massage; skin exfoliation; and skin stimulation using body treatments, body wraps, or hydrotherapy. To some extent, the rulemaking reflects this change in scope. Covered topics include adding required pedicure equipment cleaning and disinfecting procedures; relaxing barber school approval criteria to allow a school to have 3 months of operating funds on hand rather than 1 full year of funds; adding cosmetology clinic teacher education, instructor institutes, and experience requirements; and reporting a transfer of cosmetology school ownership. Concerning esthetics, amendments add clinic teacher education and experience requirements, required examination topics for estheticians and teachers, minimum instructor institute curriculum, and substitution of the 20-hour institute for the 250-hr. clinic teacher curriculum in some instances. Concerning nail technicians, eligible applicants must be beyond the age of compulsory school attendance or must have a high school diploma or its equivalent. Nail technology teacher education and experience requirements and requirements for transferring ownership of training schools are amended in a manner consistent with those noted above for other cosmetology services. Concerning continuing education (CE) requirements for the various cosmetology practitioners, all licensees over age 61 or all licensees who have been licensed for at least 25 years are exempt from CE requirements. In addition, owners, managing partners, or CEOs of shops that provide the services covered by this Part must include a list of any cosmetology licenses they hold when applying for their shop's required registration certificate. A change since 1st Notice increases the student/teacher ratio in cosmetology, esthetics, and nail technology schools from 20:1 to 25:1 during clinical instruction. Those affected by this rulemaking

New Regulations

include those practicing cosmetology in all of its forms, training schools, and CE instructors.

Questions/requests for copies: Barb Smith, DFPR, 320 W. Washington, 3rd Fl., Springfield IL 62786, 217/785-0813, Fax 217/557-4451.

UNIVERSITY RETIREMENT

The STATE UNIVERSITIES RETIREMENT SYSTEM adopted an amendment for "Universities Retirement" (80 Ill Adm Code 1600), effective 5/9/06, to specify the types of compensation that constitute earnings and, therefore, are subject to withholding for pension benefits. Payments for "services rendered" are subject to SURS withholding and may include certain

types of bonuses, housing and automobile allowances, certain fringe benefits, overtime pay, and certain unused sick leave pay covered by collective bargaining agreements.

Questions/requests for copies: Albert Lee, SURS, 1901 Fox Dr., Champaign IL 61820, 217/378-8855 or 217/378-7516.

LIBRARY GRANTS

The SECRETARY OF STATE adopted emergency amendments to "Public Library Construction Grants" (23 Ill Adm Code 3060), effective 5/15/06, for a maximum of 150 days in response to recent increases in funding for the program and to mitigate the effects of sharp increases in construction costs. An identical proposed

rulemaking appears in this issue of the *Illinois Register*. SOS eliminates its existing practice of releasing grant funds in 3 stages for large projects, thereby permitting all grantees to contract for projects with funds in hand at a lower set price. The distinction in funding levels between grants of \$50,000 or less and those that are more than \$50,000 is also eliminated. Tax-supported libraries and library districts seeking grants under this program may be affected by these rulemakings.

Questions/requests for copies/comments concerning the proposed rulemaking until 7/10/06: Joe Natale, Illinois State Library, 300 S. 2nd, Springfield IL 62701, 217/558-4185, e-mail: jnatale@ilsos.net

Proposed Regulations

tals, the factor by which payment is multiplied is decreased from 0.22 to 0.18. Medicaid-funded hospitals may be affected by this rulemaking.

Questions/requests for copies/comments concerning the 2 HFS rulemakings above until 7/10/06: Tamara Tanzillo Hoffman, HFS, 201 S. Grand Ave. E., 3rd Fl., Springfield IL 62763-0002, 217/557-7157.

CORRECTIONAL FACILITIES

The DEPARTMENT OF CORRECTIONS proposed amendments to "Rights and Privileges" (20 Ill Adm Code 525) to include mail from and to the Illinois inspector general and state's attorneys under the category of incoming and outgoing "privileged" mail. An additional change requires notice to be sent to a publisher who mails a publication directly to an incarcerated person and also to the receiving offender to notify them that a review has been initiated to ascertain whether the publication is prohibited from acceptance at the facility. After receipt of the notice, the pub-

lisher has 21 days to object and submit supportive statements and documentation. Publications considered obscene or detrimental to security, good order, rehabilitation, or discipline or that might facilitate criminal activity or be detrimental to an offender's mental health are prohibited. Those affected by this rulemaking include publishers of prohibited materials.

Questions/requests for copies/comments until 7/10/06: Beth Kiel, DOC, 1301 Concordia Ct., Springfield IL 62794-9277, 217/522-2666 (Ext. 6511).

HORSE RACING

The ILLINOIS RACING BOARD withdrew a proposed new Part titled "Discretionary Rules" (11 Ill Adm Code 323) and the proposed repeal of rules of the same title at 11 Ill Adm Code 1425. Both rulemakings were originally proposed in the 12/16/05 *Illinois Register*. The Board had planned to transfer the Part 1425 rules from subchapter g of the Code, which pertains only to thoroughbred horse racing, to

IRB regulations in subchapter a of the Code, which covers both thoroughbred and harness racing regulations. However, the Board withdrew the rulemakings in response to a JCAR Objection that the new Part lacks necessary standards.

Questions/requests for copies: Mickey Ezzo, IRB, 100 W. Randolph, Ste. 7-701, Chicago IL 60601, 312/814-5017, e-mail: mickey_ezzo@irb.state.il.us

JCAR JUNE MEETING DATE

Please note that last week's *Flinn Report* mistakenly indicated under the summary of JCAR meeting action that the Committee's next meeting would be on 6/9/06. The correct date for JCAR's June meeting in Chicago is 6/13/06 as reported in the introduction to the list of second notices. JCAR apologizes for any confusion caused by publication of these 2 conflicting dates. Also, the 3 Department of Agriculture rulemakings extended at the May JCAR meeting will be placed on the July JCAR meeting agenda rather than the June agenda.

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Second Notices

The following rulemakings were moved to second notice this week by the agencies listed below, commencing the JCAR review period. These rulemakings will be considered at JCAR's June 13, 2006 meeting in Chicago.

TEACHERS' RETIREMENT SYSTEM

"The Administration and Operation of the Teachers' Retirement System" (80 Ill Adm Code 1650) proposed 3/31/06 (30 Ill Reg 6003)

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

"Standard Procurement" (44 Ill Adm Code 1) proposed 3/17/06 (30 Ill Reg 4203)

"State of Illinois Medical Care Assistance Plan" (80 Ill Adm Code 2120) proposed 3/31/06 (30 Ill Reg 5741)

DEPARTMENT OF NATURAL RESOURCES

"General Hunting and Trapping on Department-Owned or -Managed Sites" (17 Ill Adm Code 510) proposed 3/31/06 (30 Ill Reg 5803)

"Raccoon, Opossum, Striped Skunk, Red Fox, Gray Fox, Coyote and Woodchuck (Groundhog) Hunting" (17 Ill Adm Code 550) proposed 3/31/06 (30 Ill Reg 5810)

"Muskrat, Mink, Raccoon, Opossum, Striped Skunk, Weasel, Red Fox, Gray Fox, Coyote, Badger, Beaver and Woodchuck (Groundhog) Trapping" (17 Ill Adm Code 570) proposed 3/31/06 (30 Ill Reg 5820)

"White-Tailed Deer Hunting by Use of Muzzleloading Rifles" (17 Ill Adm Code 660) proposed 3/31/06 (30 Ill Reg 5858)

"Youth Hunting Seasons" (17 Ill Adm Code 685) proposed 3/31/06 (30 Ill Reg 5899)

"Squirrel Hunting" (17 Ill Adm Code 690) proposed 3/31/06 (30 Ill Reg 5906)

"The Taking of Wild Turkeys – Fall Archery Season" (17 Ill Adm Code 720) proposed 3/31/06 (30 Ill Reg 5917)

"Dove Hunting" (17 Ill Adm Code 730) proposed 3/31/06 (30 Ill Reg 5928)

"Crow, Woodcock, Snipe, Rail and Teal Hunting" (17 Ill Adm Code 740) proposed 3/31/06 (30 Ill Reg 5944)

DEPARTMENT OF PUBLIC HEALTH

"Employee Blood Donation Leave Code" (77 Ill Adm Code 985) proposed 1/20/06 (30 Ill Reg 778)

"Intermediate Care for the Developmentally Disabled Facilities Code" (77 Ill Adm Code 350) proposed 2/24/06 (30 Ill Reg 2472)